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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,599	10/11/2003	Peter A. Hogenson	BOE 0435 PA	2598

44702 7590 06/15/2006

OSTRAGER CHONG FLAHERTY & BROITMAN PC
250 PARK AVENUE, SUITE 825
NEW YORK, NY 10177

EXAMINER

RADI, JOHN A

ART UNIT PAPER NUMBER

3641

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/605,599

Applicant(s)

HOGENSON ET AL.

Examiner

John A. Radi

Art Unit

3641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

J. Woodman Elder

3. cont'd - with regard to entering the amendment, the changes to independent claim 15 will require further consideration and added search.

11. cont'd -

The applicant's arguments have been considered but are not persuasive.

With regard to the argument that Schmidt does not teach a semi-rigid thermal protection system, the applicant's attention is drawn to applicant's specification page 16 which states "Thermal protection systems are well known in the art and are known to come in a variety of configurations and materials. TPS such as ceramic tiles utilized on the space shuttle are only one example" which would lead one to conclude that "semi-rigid TPS" includes the commonly used ceramic tiles as used and understood in the art. Furthermore, the ceramic tile system taught by Schmidt is not a single ceramic sheet covering the tank, but rather a series of rigid ceramic plates which aren't bonded to each other in a rigid plate but are laid against each other (see figure 5), which allows the ceramic plates as a whole to form a "semi-rigid thermal protection system" which is then bonded.

With regard to applicant's piecemeal analysis against the 103 rejection that Middleton doesn't teach the use of polyurethane foam, the examiner reads the term "foam" loosely and is not limited by insulating qualities which aren't mentioned in the claim, therefore the entire assembly consists of the polyurethane adhesive layer taught by Middleton, the foam assembly of Schmidt, and any additional gases trapped in the application of one to the other.

Furthermore, while not made a formal rejection, Schmidt does teach the use of a foam layer and it would have been obvious to one having ordinary skill in the art to select from known materials (polyurethane or polyimide foams), based on its suitability for the intended use. Therefore, because Middleton teaches the use of polyurethanes in a cryogenic environment it would suggest that it doesn't fail in the extreme temperatures caused by such, and would therefore be a suitable material to choose from when selecting a foam assembly for Schmidt.

With regard to applicant's arguments directed to the honeycomb core, the examiner disagrees with applicant's assertion that Middleton is not suitable to the task. The limitations that the honeycomb core not be cellular or have open cells is not mentioned in the claims and is therefore not limiting in a patentable sense.